



# Ensuring Early Access to Legal Counsel: Exploring Implementation and Outcomes in Two Jurisdictions

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# Ensuring Early Access to Legal Counsel: Exploring Implementation and Outcomes in Two Jurisdictions

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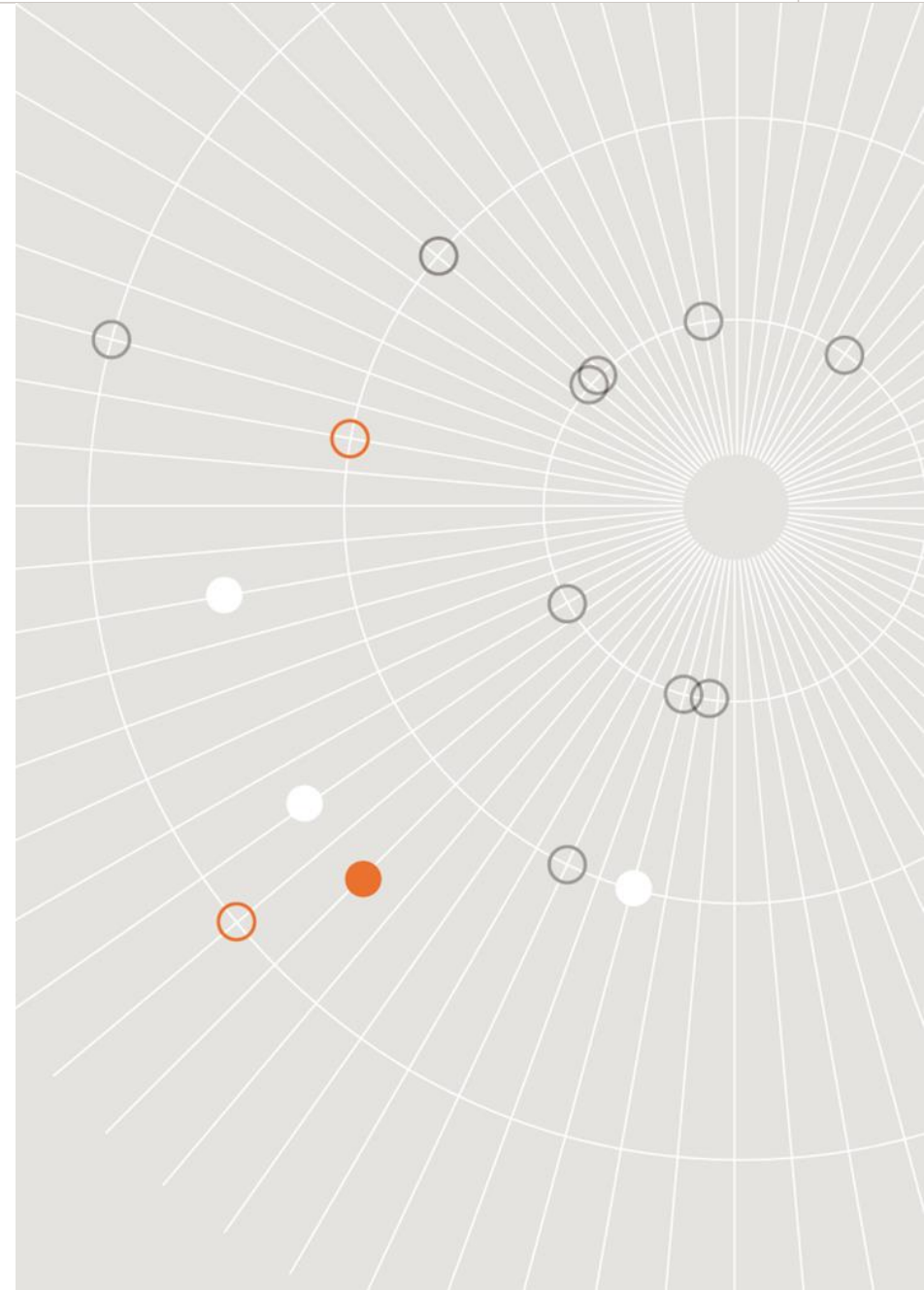
# Researcher-Practitioner Partnership

- **NORC at the University of Chicago**
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- **Urban Institute**
  - Emily Tiry, *Senior Research Associate*
- **MW Consulting**
  - Michael Wilson, *Economist*
- **Salt Lake City, Utah**
  - Leslie Howitt, *Research and Data Analyst*
- **Barry County, Michigan**
  - Kerri Selleck, *Chief Public Defender*
  - Jonah Siegel, *Research Director, Michigan Indigent Defense Commission*

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# Agenda

- Study Background & Goals
- Site Partners
- Outcome Analysis
- Cost-Benefit Analysis
- Discussion
- Questions



# Background

- *Gideon v. Wainwright* (1963)
  - All individuals accused of a crime have the right to an attorney, and if one is unable to afford an attorney, the state will provide a free attorney
- *Rothgery v. Gillepsie County* (2008)
  - Counsel must be provided at all critical stages of a case
  - What is a 'critical stage'?

## Background

- Counsel at first appearance (CAFA) is a critical stage
- Findings have shown that CAFA is associated:
  - Reduced bail
  - Shorter and less severe sentencing outcomes
  - Less likelihood of being held pretrial (or shorter pretrial holds)
- Over half of the states are providing CAFA in some form
- Little rigorous research

# Goals & Research Questions

- Goals
  - Study the outcomes and costs associated with providing legal counsel at first appearance
  - Develop and disseminate a cost-benefit analysis tool to build capacity across jurisdictions
- Research Questions
  - Does providing counsel at first appearance in court have an impact on case outcomes?
  - How much does it cost to implement counsel at first appearance?
  - What cost-savings are associated with providing counsel at first appearance?



## Site Selection

- Partner with two sites who had implemented CAFA
  - Implemented CAFA rather recently
  - Provide pre- and post-implementation data, including jail, defense, court data
  - Buy-in from stakeholders

# Site Partners

## 1. Barry County, Michigan

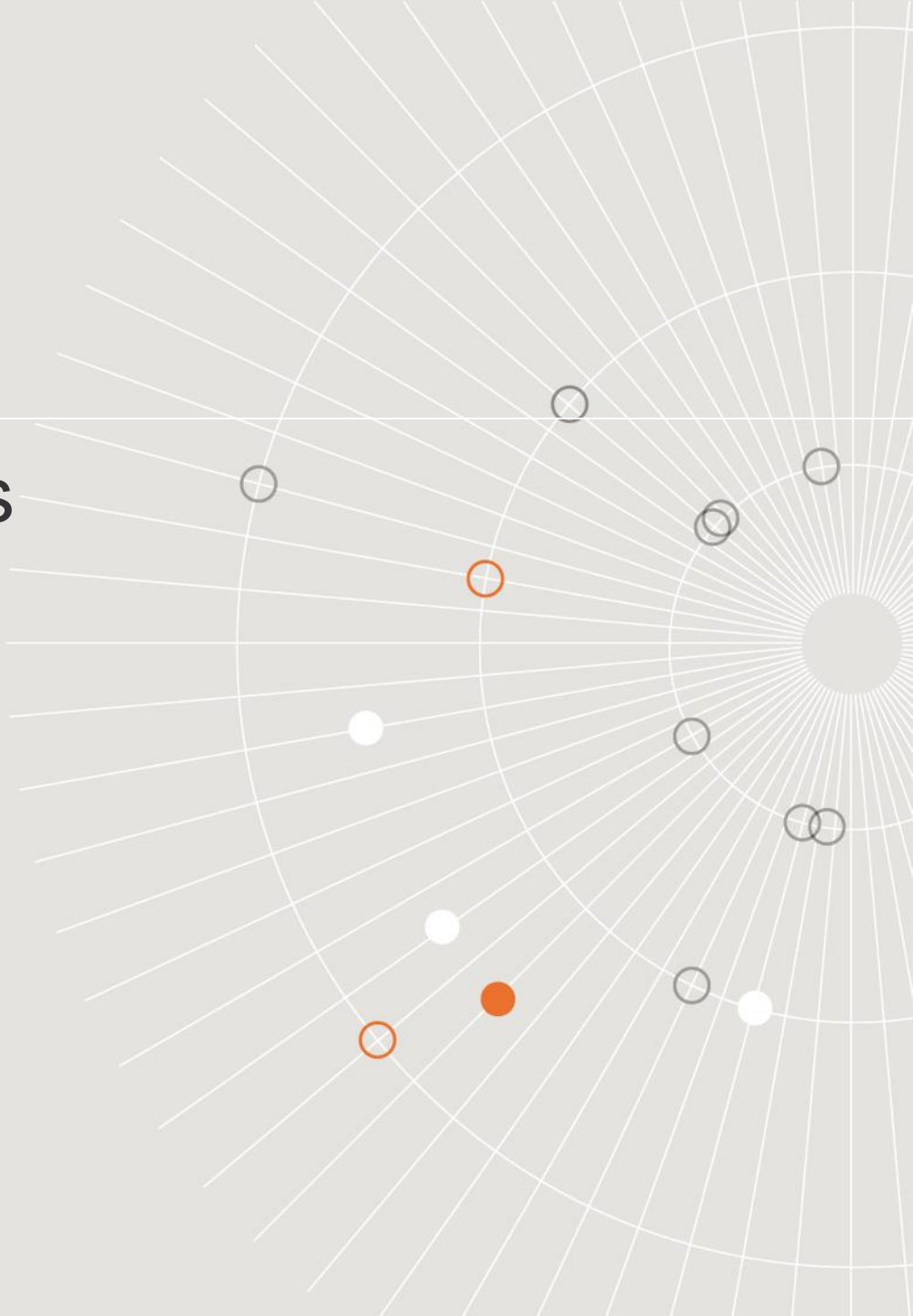
- Kerri Selleck, Chief Public Defender
- Jonah Siegel, Research Director, Michigan Indigent Defense Commission

## 2. Salt Lake City, Utah

- Leslie Howitt, Research and Data Analyst

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# Outcome Analysis



# Data

- Barry County, MI
  - CAFA began in 12/2018 for in-custody & 3/2019 for out-of-custody
  - Criminal cases filed between:
    - 3/1/2018 – 12/31/2018: control/pre-implementation group
    - 3/1/2019 – 12/31/2019: treatment/post-implementation group
- Salt Lake City, UT
  - CAFA began on 9/1/2019
  - Criminal cases with 1<sup>st</sup> appearances between 9/1/2018 – 2/28/2020
    - 9/1/2018 – 1/31/2019: control/pre-implementation group
    - 9/1/2019 – 2/28/2020: treatment/post-implementation group

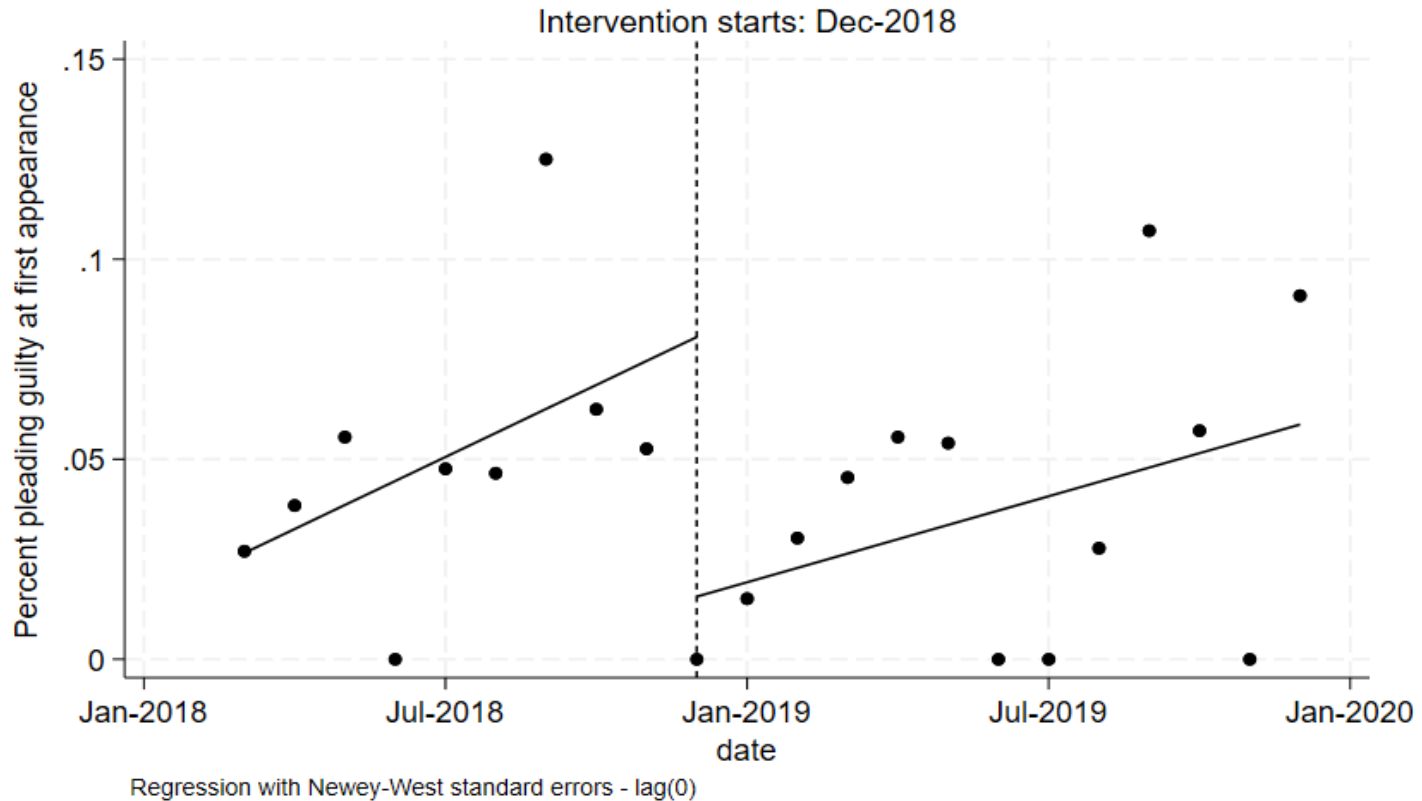
# Barry County, MI

- **District Court**
  - Civil cases with claims up to \$25,000, landlord-tenant matters, traffic violations and misdemeanor criminal cases.
  - All first appearance hearings occur in a District Court with the more serious criminal cases bound over to Circuit Court.
- **Circuit Court**
  - Trial courts with jurisdiction over civil cases with claims over \$25,000 and all felony criminal cases
- **Analysis: Interrupted Times Series**
  - District Court: In-Custody and Out-of-Custody Cases
  - Circuit Court: In-Custody and Out-of-Custody Cases

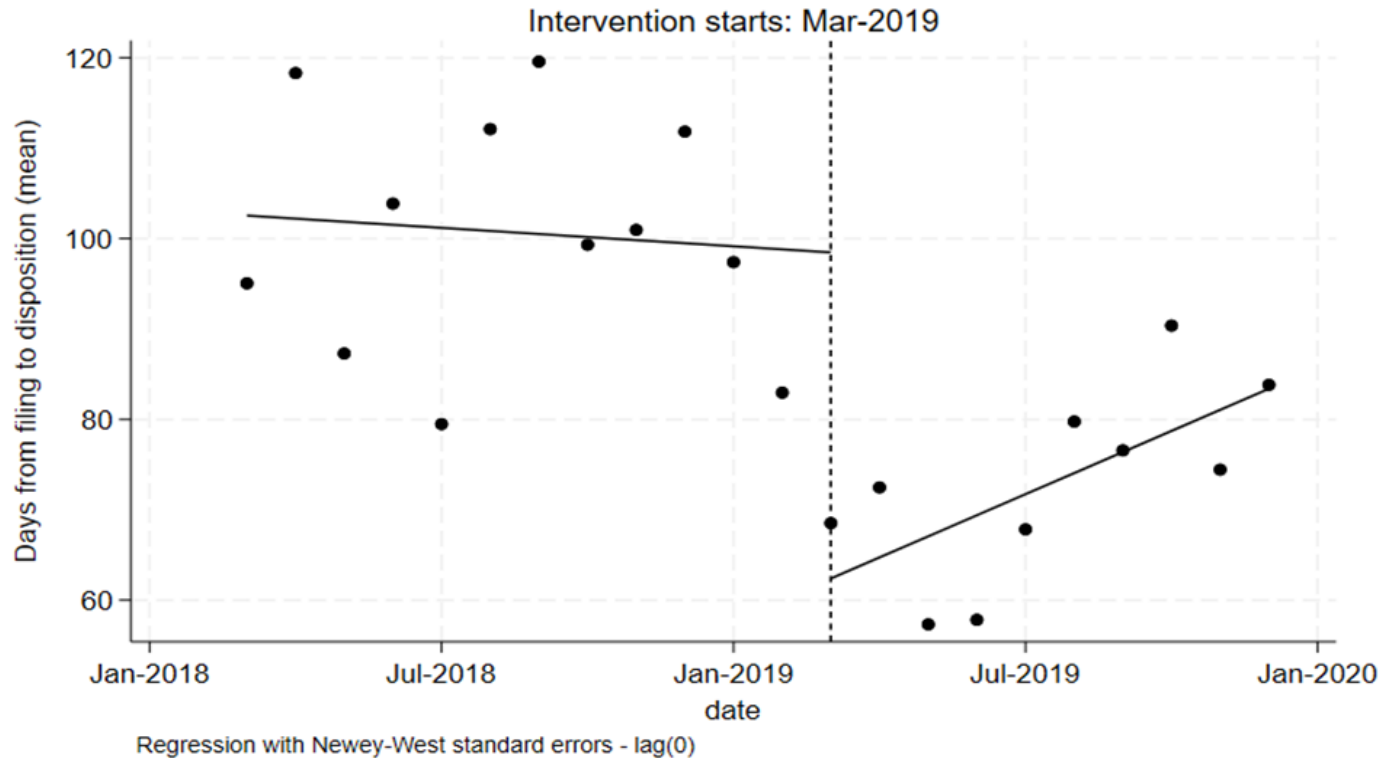
# Barry County, MI

	Immediate change direction	Immediate change amount	Change over time direction compared to pre-CAFA	Change over time amount compared to pre-CAFA
<b>In-custody</b>				
Percent pleading guilty at first appearance	Decrease	-6%	None	n/a
<b>Out-of-custody</b>				
Days from filing to disposition	Decrease	-36.08 days	None	n/a
Percent pleading guilty at first appearance	Decrease	-9%	Increase	1% per month
Percent sentenced to probation	Increase	11%	None	n/a
Fines/fees sentence (dollars)	None	n/a	Decrease	-\$53.14

## Percent Pleading Guilty at First Appearance Pre- and Post-CAFA, District Court In-Custody



## Days from filing to Disposition Pre- and Post-CAFA, District Court Out-of-Custody

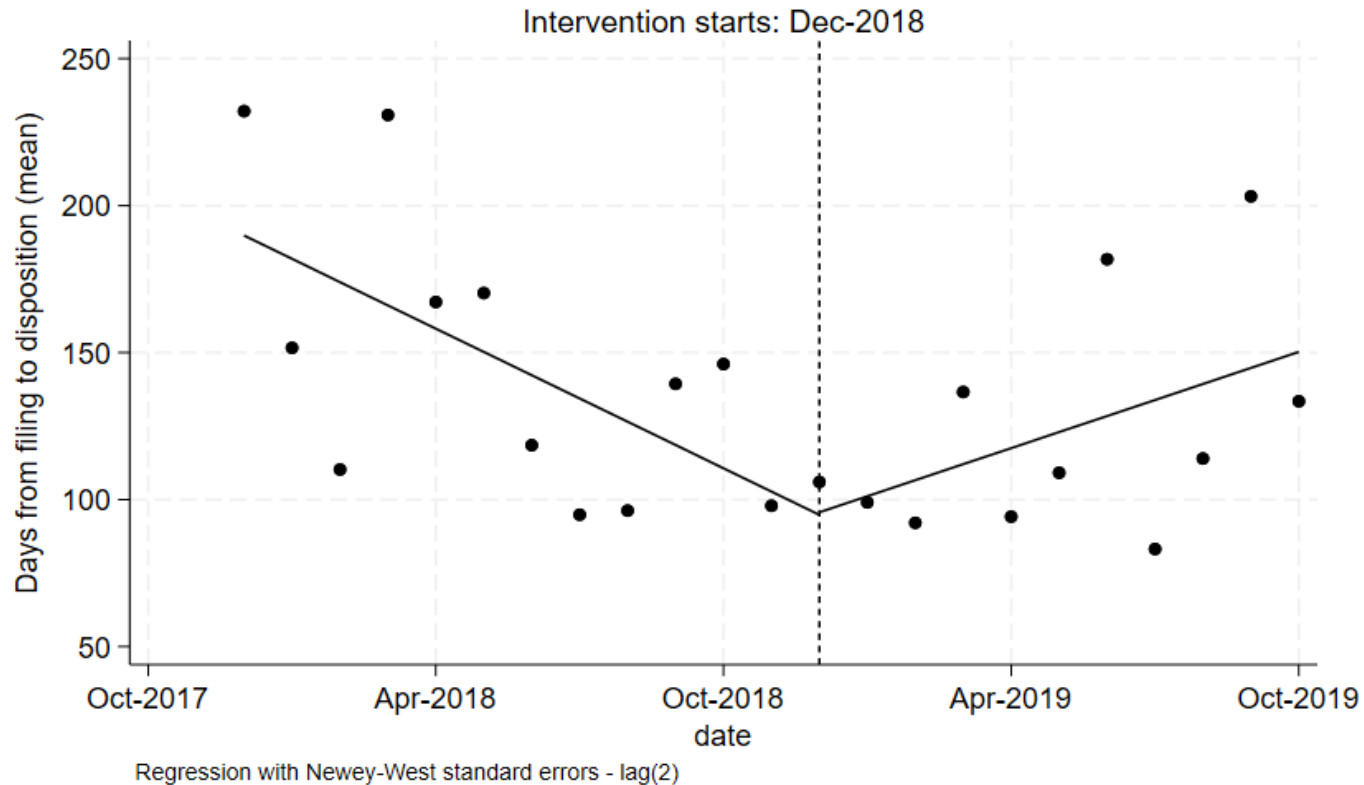




# Barry County, MI

	Immediate change direction	Immediate change amount	Change over time direction compared to pre-CAFA	Change over time amount compared to pre-CAFA
<b>In-Custody</b>				
Days from filing to disposition	None	n/a	Increase	13.3 days per month
Percent sentenced to prison	None	n/a	Increase	2% per month
Percent sentenced to probation	None	n/a	Decrease	-5% per month

## Average Days from Filing to Disposition Pre- and Post-CAFA, Circuit Court In-Custody



# Salt Lake City, UT

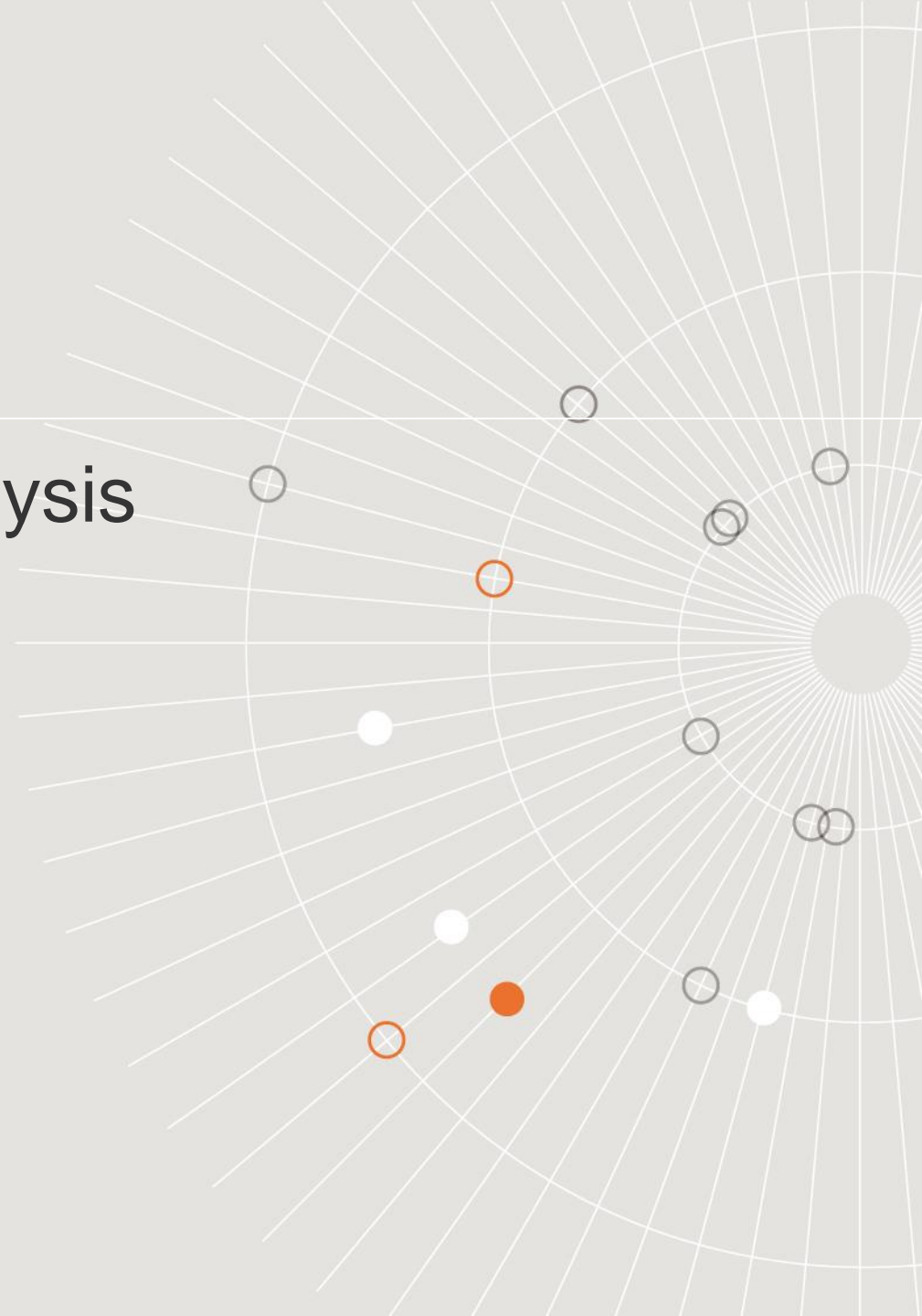
- Justice Court
  - Local courts with limited jurisdiction over Class B and Class C misdemeanor infractions, violations of ordinances, and small claims.
  - CAFA program in place for in-custody cases
- District Court
  - Trial courts with jurisdiction over civil cases, criminal felonies, and certain misdemeanors.
- Analysis: Propensity Score Matching
  - Justice Court: Out-of-Custody cases
  - District Court: In-Custody and Out-of-Custody Cases

# Salt Lake City, UT

	District Court In-Custody	District Court Out-of-Custody	Justice Court Out-of-Custody
Days in jail between first appearance and disposition	↓ -12.5 days	n/a	n/a
Days from filing to disposition	↓ -71.0 days	↓ -123.3 days	↓ -129.3 days
Any FTAs	↓ -6%	↓ -16%	↓ -9%
Total FTAs	↓ -0.1 FTAs	↓ -0.4 FTAs	↓ -0.2 FTAs
Bail amount	—	n/a	n/a
Total hearings	—	↓ -1.8 hearings	↓ -0.5 hearings
Pleaded guilty at first appearance	n/a	n/a	—
Convicted	—	—	↓ -7%
Sentenced to prison	↓ -12%	↓ -3%	n/a
Prison sentence length (months)	—	n/a	n/a
Sentenced to jail	↑ +15%	↑ +7%	↓ -6%
Jail sentence length (months)	—	—	—
Sentenced to probation	—	—	—
Probation sentence length (months)	—	—	—
Sentenced to fines/fees	n/a	—	—
Fines/fees sentence (dollars)	n/a	—	—

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# Cost-Benefit Analysis



# Cost-Benefit Analysis

- Use standard economic tools that have been developed and implemented over the past two decades to examine criminal justice outcomes
  - Relies on rigorous outcome evaluation to determine the effectiveness of programs or practice
  - Relies on marginal costs instead of average costs
  - Cost avoidance compared to cost savings
- The cost of the program or policy is compared to the benefits of avoided criminal justice system usage
- Not all benefits can be measured or monetized

## Estimating Costs and Benefits

- Program costs – How much does it cost to provide counsel at first appearance?
  - Budget data that primarily includes wages and benefits of additional attorneys was divided by the number of clients who could be served by the additional staff
- Outcome costs (benefits) – What are the marginal costs of the criminal justice system?
  - Estimated the cost per day of jail and court hearings
  - Relied on publicly available budget data and caseload data
  - Attempted to estimate costs of longer jail and prison sentences

## Barry County, MI

- Program cost estimate
  - Based on staffing costs and the number of clients served the estimated cost of CAFA was \$35 per case
- Jail cost estimate
  - Based on jail budget data and the average daily population the marginal cost of a day in jail was \$45 per day
- Outcome data did not show significant reductions in time spent in jail from counsel at first appearance, meaning no cost-benefit analysis was performed
- However, the cost of one day in jail is greater than the cost of CAFA so even a one-day reduction in jail time would result in a net cost avoidance



## Salt Lake City, UT

- Program cost estimate
  - Based on staffing costs and the number of clients served the cost of CAFA per in-custody client was \$36
- Outcome evaluation showed reduction in pretrial jail bed usage and reduced sentences for those who were convicted
  - Estimated cost per day of jail was \$68.54
  - Estimated reduction in jail days of 12.5
  - Total avoided costs of reduced pretrial jail bed usage was \$857
- Each dollar invested in CAFA is expected to avoid \$24 in pretrial jail costs
- Each client served by CAFA results in a net benefit of \$821

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Thoughts or Questions?






Thank you.

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